IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A.No.3326 of 2005
Date of Decision : 08-10-2007

Ranjit Singh and another .....Appellants

versus

Jarnail Singh and others .....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present : Mr.Sandeep Jain, Advocate for the appellants.

-.-

JUDGMENT

HEMANT GUPTA, J.

The plaintiffs are in second appeal aggrieved against the judgment and decree passed by the Courts below whereby the suit for declaration was dismissed which was to the effect that the order of partition dated 13.2.1995 rendered by the Assistant Collector 1st Grade, Nawanshahr is illegal.

The challenge of the plaintiffs was to the order of partition passed by the Assistant Collector 1st Grade on the ground that the land stands partitioned by virtue of the memorandum of partition executed on 24.5.1980 when the possession was exchanged by the co-sharers and the parties were delivered possession.

Both the Courts below have found that the plaintiffs have not produced any document of memorandum of partition allegedly executed on 24.5.1980. Thus, it cannot be said that the order passed by the Assistant Collector 1st Grade partitioned the suit land by metes and bounds, is illegal, null and void. It has also been alleged that the jurisdiction of the Civil Court is barred in terms of Section 158 of the Punjab Land Revenue Act, 1887.

In the absence of any document on record in respect of the alleged memorandum of partition, the finding recorded by the Courts below that there was no partition as propounded by the plaintiffs, cannot be said to be suffering from any patent illegality or irregularity. Since there is no mutual partition, the Revenue authorities have exercised jurisdiction in accordance with law while passing an order of partition. Since the Revenue authorities have passed an order of partition, the jurisdiction of the Civil Court is barred in terms of Section 158 of the Punjab Land Revenue Act, 1887.

I do not find any illegality or irregularity in the findings recorded by the Courts below which may give rise to any substantial question of law for consideration of this Court in second appeal.

Consequently, the appeal stands dismissed.

08-10-2007 (HEMANT GUPTA)
**mohinder* JUDGE